CENTRAL INTELLIGENCE AGENCY

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General Counsel

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NOTE FOR THE DIRECTOR

Bill:

I think you might find the attached article on Vickie Toensing interesting.

STAT

Stanley Sporkin

Attachment

P310

Victoria Toensing:

At 25 she was an English teacher with three young children at home.

At 31 she started law school.

At 35 she was supervising drug busts as a federal prosecutor.

At 39 she sparked the ongoing investigation of Detroit's bankruptcy court.

Now, at 40, Victoria Toensing has just become chief counsel of the Senate Select Committee on Intelligence.

Housew Teacher, Prosecu Spywatc

BY JILL ABRAMSON

Off a subterranean corridor in the Dirksen Senate Office Building, behind double mahogany doors, in a drab, windowless room marked "auditorium," works the 22-member staff of the Senate Select Committee on Intelligence. To enter as a visitor one must first be cleared by security guards outside the office and then have a government escort. To work within these doors, one must have top secret clearance or higher.

The committee's chairman, Senator Barry Goldwater (R-Arizona), and its vice chairman, Senator Daniel Patrick Moynihan (D-New York), are two of only eight members of Congress who must be informed of all covert actions undertaken by the Central Intelligence Agency. As the watchdogs of the CIA, the senators—and their highest-ranking staff members—are privy to some of the most secret of our nation's secrets.

There are few staff positions available; except for Goldwater and Moynihan, who get to appoint their own respective majority and minority staffers, each of the other 13 senators (six Democrats and seven Republicans) on the committee is entitled to only one staff designee. For that reason, and because the work is both sensitive and interesting, a staff job on the Senate Select Committee on Intelligence is a plum. Usually the jobs are given to specialists or old hands on the Washington scene—the highly placed staffers from each senator's office or from other committees on which these senators serve. Most of the staff members are men.

So it was unusual that on October 22, when committee chairman Goldwater filled the post of chief counsel—the number-two staff position—he chose Victoria Toensing, 40. She was, for one, a Washington newcomer. She had worked on the Hill for only three months, as deputy special counsel in the highly criticized probe of CIA director William Casey. And she had gotten that job through her new husband, Joseph DiGenova, who, as Senator Charles Mathias's top aide and chief of staff of the powerful Senate Rules Committee, is one of the best-connected Republican lawyers on the Hill. Moreover, Toensing hasn't been a lawyer for long. A former housewife, she entered a less-than-prestigious law school at the age of 31. Her experience has come mainly from her five years in the narcotics unit of the U.S. attorney's office in Detroit.

Toensing's debut into the society of Capitol Hill committee counsels was hardly auspicious. Instead of being greeted with the press fanfare that might have accompanied the appointment of the only woman chief counsel in the new, Republican-controlled Senate, she stepped into an office rife with internecine warfare. Two days before her appointment was announced, committee staff director John Blake quit. (According to press accounts, Blake quit in a huff because he had not been consulted about Toensing's appointment. He now says that he was "unhappy" with the job all along.)

Then a difficult entrée turned positively awkward when on November 3 chairman Goldwater checked into an Arizona hospital for surgery that will keep him away from Washington for months. As if this weren't enough, Toensing's first assignment—to write the committee's report on the Casey investigation, which Goldwater had promised to make public within the month—was a task one Democratic lawyer described as "a job I wouldn't wish on any lawyer trying to prove him or herself in Washington." Yet proving herself to the sharks who chart Washington's political waters is exactly what Toensing will have to do.

From its beginning in July, the Casey investigation was roundly criticized by Casey supporters and detractors alike. Some, such as staff director Blake, were infuriated when Goldwater hired a special counsel to handle the probe. They thought the investigation was a pointless exercise that would only dredge up old news about Casey and further damage the CIA's image. The Democrats, on the other hand, wanted a tougher, longer investigation and in September hired their own minority special counsel—Irvin Nathan of Arnold & Porter—to bolster the effort.

Toensing came to the Casey probe July 29 through her husband, whom she met at an ERA march during the 1980 national GOP convention in Detroit. DiGenova was friendly with Fred Thompson, the former Senate Watergate minority counsel who had been appointed special counsel for the Casey investigation on July 27. DiGenova encouraged his wife, who had been job hunting in Washington since their June wedding, to send Thompson her résumé. Thompson says he liked what he saw—solid investigative credentials—and after interviewing several other candidates, he hired Toensing within the week as deputy special counsel.

On the day she started work, before she had had a chance to examine even the first page of the two-foot stack of financial records Casey had delivered to the investigators, the committee gave the embattled CIA director a preliminary clean bill of health: "Based upon the staff review to date, and Mr. Casey's lengthy testimony [before the committee] today, it is the

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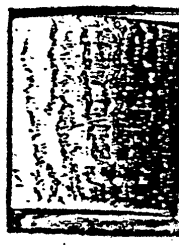
unanimous judgment of the committee that no basis has been found for concluding that Mr. Casey is unfit to serve as [director of Central Intelligence]," chairman Goldwater stated. That swift verdict seemed ridiculous, given that Goldwater had publicly called for Casey's resignation the week before, and it made the investigation look like the whitewash its critics always said it would be.

The investigation dragged on for four more months, until October 31, when the special counsels were disbanded. Irvin Nathan returned to Arnold & Porter; Fred Thompson went back to the Washington office of Thompson & Crawford, and in her new job as chief counsel, Toensing was saddled with the task of drafting the investigation report. As she began that work on November 1, a source close to the investigation complained that "not a single written memorandum" had, up to this point, issued from the special counsels, although Nathan supplied the committee with a lengthy written analysis of his work shortly thereafter.

Despite the fact that during the investigation she read more than 40,000 pages of Casey materials, the final investigation report, released on December 2, was a scant six pages long. While it chided Casey for being "at a minimum inattentive to detail," the single-spaced report was a reaffirmation of the committee's July 29 statement finding Casey not unfit to continue as director of Central Intelligence.

Although Senator Joseph Biden (D-Delaware) voted against the report and Senator Patrick Leahy (D-Vermont) took exception to its "not unfit" conclusion, Toensing and the committee, which prizes its nonpartisan reputation, were spared the tribulation of having to deal with a dissenting minority report.



Even so, her first major performance as chief counsel drew decidedly mixed reviews. One source close to the minority side of the committee complained that Toensing's first draft, which provided the basis for the final report, was "objectionable to just about everyone on the committee" for "the poor quality of the writing" and the lack of "hard legal analysis." But Thompson defends Toensing; he calls the criticism of her work "petty backbiting" and adds that "she's the new girl on the block, and some of the staff are having trouble adjusting to the fact that she's boss."

Writing the Casey report must have been much more than the mere "challenge" Toensing dubbed it during an interview in early November. It was a dangerous and delicate political minuet, requiring a lot of fancy footwork. But anyone harboring doubts about whether Victoria Toensing can survive in a job that most likely will put her in the political hot seat should consider her background and the will and determination she has demonstrated in getting to the top.

She was born in 1941 in the Canal Zone. Her military family had to flee the Canal Zone after the Japanese invaded Pearl Harbor, and she grew up in Indiana. She enrolled at Indiana University in the late 1950s, where she met her first husband, Trent Toensing. "She was the perfect cheerleader," says a friend, "and he was an athlete. They were the perfect All-American couple."

They were married right after graduation in 1962, and Toensing taught high school English for one year. While her husband began climbing the corporate ladder at the American Hospital Supply Corporation, Toensing guarded the home front, learning the art of corporate entertaining and rearing their three children, two boys and a girl.

Like many other corporate wives, Victoria Toensing excelled at making hors d'oeuvres and dabbled in Republican politics. Through her work for Republican candidates in Indiana, Toensing met some of the local leaders of the burgeoning women's movement. She was active in the newly established National Women's Political Caucus and became a leader in its Republican arm, the National Republican Women's Task Force. She eventually founded her own political group in Michigan—Women Organized to Meet Existing Needs (WOMEN).

In 1968, she was in charge of women's activities for William Ruckelshaus's unsuccessful campaign for the U.S. Senate. His wife, Jill, had completed two years of law school in spite of the demands of five children and a politician husband; and although Jill Ruckelshaus never finished law school, she was an inspiration to Toensing, who says she had often said to herself, "If I were a man, I'd be a lawyer."

In 1971, after her husband was transferred by his company to Michigan, she entered the University of Detroit Law School. She had just finished working for the campaign of Harriett Rotter, who had run unsuccessfully for Congress as a Republican in Michigan's Eighteenth District. Expecting to lose in this highly Democratic area, Rotter had also applied to the same law school. Toensing and Rotter were the only women in their class with three children at home. "We were always the only ones who had to be home early for Halloween," Rotter recalls. There were about 20 women in a class of more than 150. "Women were not in law school in droves at that time," Toensing says.

Finding that some of the younger men in her class were reluctant to have her in their study groups, Toensing organized her own, which included Rotter, two other women, and one male student. All four women graduated near the top of the class. (The male student did less well and practiced law briefly.)

Victoria Toensing: did her Casey report lack "hard

The long days of classes, the late-night studying, and her political activities, which included an unsuccessful run for the Michigan legislature during her freshman year, put a strain on Toensing's marriage. According to Rotter, the couple's divorce in 1976 "had tongues wagging" because Victoria Toensing wanted a joint custody arrangement with their children. Her oldest son, then 13, went to live with his father, who quickly remarried. When her other son turned 13, he also went to live with Trent Toensing, who now lives in New Hampshire. Her 11-year-old daughter, Amy, has always lived with her mother.

With baby-sitters coming and going, as Rotter remembers it, Toensing took a job as a clerk at the Michigan Court of Appeals, then an all-male court. Only male clerks were chosen to work in an individual judge's chambers; the five female clerks "floated" between chambers, researching appellate briefs. Toensing says she found the experience "frustrating, far less exciting or challenging" than the experience she had gained as a clerk in the U.S. attorney's office the previous summer, when she helped prosecute a Detroit man who had fire bombed a Planned Parenthood clinic.

So she applied for a job in the U.S. attorney's office, which was at the time, according to Toensing, "the only place a woman could really get trial experience." In 1976, she became the first woman lawyer ever to work in the narcotics unit. She was one of 22 assistant U.S. attorneys in the criminal division that was then headed by Leonard Gilman, the newly appointed U.S. attorney for the Eastern District of Michigan.

Toensing worked 18-hour days, developing a courtroom manner that was "self-confident and poised," according to her boss, then-U.S. Attorney James Robinson. From 1976 to 1981 she prosecuted several major narcotics conspiracy cases at the district court level, including the Mendenhall case, which involved the prosecution of a woman heroin dealer who had been searched at the Detroit airport. The case eventually went to the Supreme Court, and its decision was considered a victory for conservatives like Toensing who wanted a broader definition of the "reasonable suspicion" agents from the Drug Enforcement Agency must have to

PHOTOGRAPH BY BOB GREISER

her Casey report lack "hard legal analysis"?

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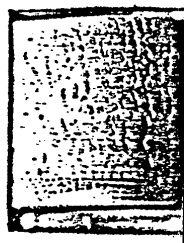
"She was especially good at preparing witnesses for trial," says Gilman, citing, for one, Toensing's preparation of a witness, a Detroit cocaine dealer, who testified for the prosecution in a narcotics conspiracy case. With Toensing's help and guidance, Gilman says, the witness got into the federal witness protection program, obtained a new identity, and eventually enrolled in college. "Vicky really cares," Gilman says. "She's quite a person as well as a terrific lawyer."

During her tenure as a federal prosecutor, Toensing was also responsible for overseeing search and seizure case law and procedures for the Drug Enforcement Administration's airport detail, becoming experienced in preparing search-related Fourth Amendment hearings. She was asked to train DEA agents in Atlanta, Boston, Philadelphia, Los Angeles, and Detroit.

"It was not at all unusual for me to get phone calls at two A.M. from the DEA agents at the airport," recalls Toensing. She frequently counseled agents to "try to engage the suspects in conversation, to ask for their consent to be searched, to raise the level of suspicious behavior" that could incriminate a suspect or at least



show probable cause for a search.

Her work in the narcotics field made her extremely "law-and-order minded," says her friend Rotter. "While she's passionately committed to equal rights," says Rotter, "she's politically conservative on most issues. She is ferociously law-and-order."

Despite her solid Republican credentials and conservative views on crime, Victoria Toensing had a hard time finding a job in Washington, where she began looking after the Republicans took over the White House. She was interviewed by Secretary Alexander Haig for the post of assistant secretary of state for international narcotics matters. But a lot of other women with top credentials and Republican connections were out pounding the pavement of Ronald Reagan's Washington. And while some were clearly less qualified than Toensing, they weren't hampered by "the strongly identified and articulated feminism" that her friend Harriett Rotter believes was a hindrance to Toensing's efforts to find a top spot in the new administration.

In Detroit, Toensing had, in fact, gained a reputation as a feminist who went beyond the usual rhetoric. In the fall of 1980, Judge Harry Hackett, then a senior judge of Detroit's bankruptcy court, approached Toensing as she was sitting with some friends at the Bull Market, a popular Detroit watering hole near the city's courts. Hackett inquired whether she was a lawyer and, when she answered affirmatively, then informed her that women should be kept "barefoot, pregnant, or in the kitchen."

Toensing complained about the incident to her boss, James Robinson. Robinson forwarded Toensing's memo about Hackett's indiscretions to the chief justice of the Michigan District Court, who, in turn, alerted the Administrative Office of the U.S. Courts in Washington. An investigation revealed not only a pattern of lewd and sexist behavior by Hackett, but it also lifted the lid on a scandal involving violation of the court's blind system of awarding bankruptcy cases. Judge Hackett "resigned" under fire last June.

Her outspokenness in the past makes Toensing's extreme guardedness during a recent interview unexpected. Yet her windowless office is a constant reminder of the need for total secrecy. (She says she recently called a friend to play tennis at lunchtime, only to be informed it was pouring rain.)

Toensing's $50,000-a-year job requires her to brief the senators on the committee on the legal ramifications of the issues they consider. Since the committee operates in as nonpartisan a way as possible, Goldwater, the chairman, tries to make the committee reach a consensus on most matters. As chief counsel, Toensing assists Goldwater in building the bridges that makes a consensus possible. The job requires diplomacy; an ability to communicate well with the staff designees who represent the other senators on the committee, and a thorough grasp of the issues.

But she does not set policy. As in almost every other congressional committee, the political pendulum of the Senate Intelligence Committee has taken a dramatic swing away from the 1970s. The moral outrage generated by the flood of data revealed by the Intelligence Committee chaired by Frank Church seems a pale memory. The question before the Senate Select Committee on Intelligence is no longer how to check the CIA but how far to let it go.

Toensing's positions on the issues reflect Goldwater's point of view because she is one of his designees on the committee. Because he is in the hospital, Toensing must shoulder more of the responsibility for building a committee consensus around the major issue that is currently on the committee's plate—the Freedom of Information Act amendment that would exempt the CIA from certain provisions of the act. Her committee will also take an active role in Senate debate on the controversial "naming names" bill that would make it a crime to reveal the identity of a CIA agent.

Her husband was a staff attorney on the Church committee, and Toensing says he has helped her gain perspective on the evolution of the committee. She goes only so far as to say that she would like to see the committee take a "balanced" approach to the issues between the extremes of the most ardent civil libertarians and those groups which advocate doing away with congressional oversight altogether and "unleashing" the CIA. "We have a constitutional duty to have effective oversight," Toensing says.

There are few substantive issues on which she now is comfortable taking a more specific position. When asked pointblank if she still supported the Equal Rights Amendment, she replied, somewhat evasively, "I have a daughter." However, she did grow positively misty-eyed when she discussed one of her recent experiences in Washington.

Toensing had been walking down the corridors of the Russell Building when she spotted Sandra O'Connor coming toward her with an entourage of reporters in tow. She holds Justice O'Connor in high esteem. Both have been trailblazers, and Toensing points out that they share the same Senate sponsor, Barry Goldwater, and that the two women share the experience of years ago having been turned down by law firms. As the first woman Supreme Court justice passed, Toensing noticed two teenage girls looking up at O'Connor. "Tears welled up in my eyes," Toensing recalls, "at the thought that these girls would have a role model like this."

One can't help but wonder whether Victoria Toensing doesn't fancy herself another such role model. □